

### **REMARKS**

Claims 2-9, 11, 12 and 15-22 are pending in the present application.

The indication that claims 2-4, 6-9, 11-12 and 19 are directed to allowable subject matter is greatly appreciated.

The Drawings stand objected to under 37 CFR § 1.83(a).

The Specification stands objected to for informalities.

Claims 5, 15-18 and 20-22 stand rejected under 35 USC § 112, first paragraph as failing to comply with the enablement requirement.

Claims 6-8, 11-12, 15-17, and 19 stand rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15-18 and 20 stand rejected under 35 USC § 101 as being directed to non-statutory subject matter.

#### **The Drawing Objections**

The Office Action states that the drawings are objected to because they do not show the system of claims 11-12, 19 and 22.

Applicant respectfully traverses the objection to the drawings. Applicant respectfully submits that such drawings are not necessary for the understanding of the subject matter sought to be patented and that one skilled in the art will be enabled to practice the invention as claimed and in light of the specification as filed. Accordingly, it is submitted that the corrected drawing(s) requested by the Office Action are not necessary. Applicant requests reconsideration and withdrawal of the objection to the drawings.

#### **The Specification Objections**

The Office Action states that is objected to because of the informalities of referencing claims 10, 12, 15 and 18 on pages 9 and 10. Applicant respectfully submits that, as noted above, the specification has been amended to remove the references to claims 10, 12, 15 and 18. Accordingly, Applicant requests reconsideration and withdrawal of the objection to the specification.

#### Rejections Under § 112, First Paragraph

The Office Action states that claims 5, 15-18 and 20-22 stand rejected under 35 USC § 112, first paragraph as failing to comply with the enablement requirement.

**Claim 5** is directed to the method as claimed in claim 2, wherein an optimal Field-of-View (FOV) is determined having geometrical positions with a prescribed accuracy for the target in the first image and the at least one fiducial marker in the second image.

The Office Action states that the specification fails to define “an optimal Field-of-View”.

Applicant respectfully submits that the application as filed would enable one skilled in the art to practice the invention as claimed. More specifically, the specification, at page 5, lines 14-20, teaches by way of a non-limiting example that Fig. 1 depicts the above described situation. Three imaging positions of a large patient 1 having a lesion 2, are schematically shown. The ellipse represents an MR image of a large person 1. On the left side and on the right side of the patient external or fiducial markers 4,5, drawn as small squares, are fixed on the patient 1. These external or fiducial markers can also be fixed on a fixation device. The circle represents the optimal field of view FOV<sup>opt</sup> 3 wherein the geometrical accuracy of the imaging system is acceptable, i.e. has a prescribed tolerance. In light of at least this disclosure, Applicant respectfully requests reconsideration and withdrawal of the § 112, first paragraph rejection of claim 5.

The foregoing discussion can be applied *mutatis mutandis* to **claims 21 and 22**. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 112, first paragraph rejection of claims 21 and 22.

**Claim 15-18 and 20** have been cancelled. Accordingly the rejections under 35 USC § 112 (and 35 USC § 101) have been rendered moot.

#### Rejections Under § 112, Second Paragraph

Claims 6-8, 11-12, 15-17, and 19 stand rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action states that “the fiducial markers” in **claims 6-8** lack antecedent basis.

Applicant respectfully submits that claim 2 includes “at least one fiducial marker” and that claims 6-8 have been amended to reflect the language of claim 2. In light of these amendments, the antecedent basis issues related to claims 6-8 have been corrected.

The Office Action states that in **claim 11** the terms “at least one fiducial marker” is only set forth in the preamble and therefore does not appear to be part of the claimed invention; however, the body of the claim defines structure in terms of the unclaimed marker.

Applicant respectfully submits that the Office Action is unclear as to why such language of claim 11 does not satisfy the requirements of 35 USC § 112, second paragraph. Should a subsequent Office Action provide the necessary clarity, Applicant will gladly respond in more detail.

As noted above, claims 15-17 have been cancelled, rendering moot the rejection under 35 USC § 112, second paragraph.

With respect to claim 19, the Office Action has not provided a detailed discussion in support of this rejection. Should a subsequent Office Action maintain this rejection and provide the necessary support, Applicant will gladly respond in more detail.

In light of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejections under § 112, second paragraph.

### **CONCLUSION**

For the reasons set forth above, it is submitted that **claims 2-9, 11-12, 19, 21 and 22** distinguish patentably over the references of record and meet all statutory requirements. An early allowance of all claims is requested.

If any extensions of time are necessary in connection with this Amendment C, Applicants hereby petition for such extension. If any fees are due in connection with this Amendment C, the authorization to charge deposit account 14-1270 for the fees associated therewith is hereby provided.

Respectfully submitted,

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